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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.850 of 2006
IN
INCOME TAX APPEAL LODGING NO.198 OF 2006

The Commissioner of Income-tax..Appellant

Vs.

Jalaludding N. Virji.....Respondent

Mr. B.M. Chaterji with Mrs. P.P. Bhosale and Mr. P.S. Sahadevan forthe Appellant
Mr. P.J. Pardiwala with Ms. Chitra Rao i/b. M.& M. Legal Ventures for the respondent.

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 29th October, 2007

P.C.:

. The case of the appellant is that there is delay of 84 days in filing the Appeal. In the affidavit in support it is pointed out that the Appeal is filed against the order dated 22nd June, 2005. The order dated 22nd June, 2005 was passed in M.A.No.262/M/05 which was an application for rectification in respect of the order of the Tribunal dated 25th March, 2003. In so far as the time taken in M.A. proceedings those are not proceedings in review. Yet considering that the appellant was bonafide prosecuting those proceedings that period could have been excluded. However, the Appellant still will have to explain the period between 25th March, 2003 and December, 2004 when M.A. was taken out. In the affidavit filed in support of the Motion for condonation of delay no

reason whatsoever has been given by the Appellant. In other words there is no explanation or cause shown. Considering the above in our opinion as the cause shown does not amount to sufficient cause, the Motion has to be dismissed which is accordingly dismissed.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**